

ADDENDUM TO INITIAL STATEMENT OF REASONS

Section 22-009.13 and .14

Specific Purpose:

These subsections are being added to make the regulation consistent with Welfare & Institutions (W&I) Code section 10951 by allowing claimants to request a hearing after 90 days, but no more than 180 days, if they have good cause for the delay, and by allowing claimants to request a hearing after more than 180 days if the principles of equity jurisdiction apply.

Factual Basis:

The W&I Code section 10951, as amended by AB 921 (Chapter 502, Statutes of 2007, effective January 1, 2008), allows claimants to request hearings after 90 days, but no more than 180 days, if they have good cause as determined by the director. Section 10951 also provides that the time limits may not "preclude the application of the principles of equity jurisdiction as otherwise provided by law." The proposed addition implements as regulations these good-cause and equity provisions of the amended Section 10951.

The Initial Statement of Reasons incorrectly stated that the time to request a hearing was 90 days after an adverse notice of action.

The W&I Code section 10951 states that a person must request a hearing within 90 (or 180) days "after the order or action complained of." The statute does not define the quoted language. The California Department of Social Services has previously interpreted the starting point for the time to request a hearing in Section 22-009.11, as after the mailing of the notice was mailed or given to the claimant.

Subsection 22-009.13 continues this interpretation, for consistency.

Section 22-054.222

Specific Purpose:

This section is being amended to allow 30 days instead of 15 days for a claimant to request that a dismissal decision based on non-appearance be set aside to schedule a new hearing.

Factual Basis:

The amendment is necessary because Department staff have observed that for many claimants, 15 days is not enough time to gather and present evidence of good cause. For example, if the claimant was prevented by illness from appearing, a doctor who treated the claimant may not respond promptly to the claimant's request for documentation. Claimants'

advocates have suggested that 30 days would be sufficient. That suggestion is incorporated in the amendment.

This statement was originally in the Initial Statement of Reasons but omitted in the regulations text. The text has now been updated.